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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,347	11/28/2001	John A. Blake	67333	1967

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 05/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

GL

Office Action Summary	Application No. 09/996,347	Applicant(s) BLAKE, JOHN A.	
	Examiner Tri M. Mai	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____ .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____ .
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 . 6) ☐ Other: .

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Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 21-25 been renumbered 20-24 respectively.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the formation for the carton with **each steps** as set forth in claims 17-21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 16-21 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

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invention. The specification fails to show how the carton is formed (see drawings objections above).

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 9-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, "a fourth panel" is a double inclusion of previously cited "plurality of panels". Furthermore, it is inconsistent. Claim 8 does not define second and third panels. Claim 11 has a similar issue with claims 11 with respect to fifth and sixth panels, and adjacent panels in claim 13.

In claim 13, "a panel" is a double inclusion of previously cited "plurality of panels".

In claim 16, "side portion of the door" has no antecedent basis.

In claim 16, "coplanar" with what?

In claim 17, in the blank, the front panel and the back panel do not attach to the opposite edge of the front panel 40.

In claim 17 "attached thereto being different from the front panel edges having the primary side panels", and "tertiary side panels attached thereto being different from..." are confusing.

Regarding claim 18, it is unclear what constitute "the collapsed state" in claim 18.

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Claim Rejections - 35 USC § 102

7. Claims 1-3, 8, 13-14, 16-20, and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Desmond (3593908). Desmond teaches a carton having top and bottom panels 17, 19, side panels 34, back panel 18, a window, and a door 22 with first and second portions 42 between panels 48 and 34.

Regarding claim 13, Desmond meets all claimed limitations with respect to the method as claimed.

Regarding claim 17, Desmond teaches side panels 56 on the back panel.

8. Claims 1-3, 8, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraus (2684792). Kraus teaches a container having top and bottom panels 11, 14, side panels 12, 13, back panel formed by panels 15-18, a window, and a door with first and second portions 66 and 37 between panels 61, 62 and the side panels.

Regarding claim 13, Kraus meets all claimed limitations with respect to the method as claimed.

Claim Rejections - 35 USC § 103

9. Claims 4-5, 9-12, 15, 21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desmond in view of either Tanner (1616707), or Adams (Body Smarts). Desmond meets all claimed limitations except for the window opening and display panel. Tanner teaches that it is known in the art to provide a window opening and a display panel for a container. It would have been obvious to one of ordinary skill in the art to provide a window opening and a display panel for a container in Desmond as taught by Tanner to display the contents effectively.

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Adams further teaches that it is known in the art to provide a window opening and a display panel for a dispensing container. It would have been obvious to one of ordinary skill in the art to provide a window opening and a display panel for the container in Desmond as taught by Adams to display the contents effectively.

10. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desmond in view of Tanner or Adams as set forth above in paragraph 9, and further in view of Carver (1142020). The combination of Desmond meets all claimed limitations except for the tab and a slot. Carver teaches that it is known in the art to provide a tab and a slot for a display panel. It would have been obvious to one of ordinary skill in the art to provide a tab and a slot in the combination of Desmond as taught by Carver to secure the display panel easily.

11. Claims 4-5, 9-12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraus in view of Bebout (3568911). Kraus meets all claimed limitations except for the second window. Bebout teaches that it is known in the art to provide a second window with a second door. It would have been obvious to one of ordinary skill in the art to provide a second window with a second a second door on the opposite wall in Kraus as taught by Bebout to provide an additional dispensing opening.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai
Primary Examiner
Art Unit 3727

T. Mai

April 29, 2003